

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MATTHEW MEINECKE.,
Plaintiff,
v.
CITY OF SEATTLE, *et al.*,
Defendants.

NO. 23-cv-352

**ORDER DENYING PLAINTIFF’S
MOTION FOR PRELIMINARY
INJUNCTION**

I. INTRODUCTION

Plaintiff Matthew Meinecke filed this civil rights action against the City of Seattle and three members of the Seattle Police Department, challenging city policy and application of Seattle municipal code ordinance § 12A.16.010(A)(3) by the police, which are alleged to “severely restrict[] Meinecke’s constitutionally protected religious expression in traditional public fora.” Compl. ¶ 1, ECF No. 1. Currently pending before the Court is Plaintiff’s motion for a preliminary injunction, ECF No. 12. Mr. Meinecke asks the Court to enjoin Defendants “from enforcing ‘time, place, and manner’ restrictions and applying Seattle municipal code ordinance § 12A.16.010(A)(3) to eliminate protected speech in traditional public fora whenever they believe individuals opposing

ORDER DENYING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

1 the speech will act hostile toward it.” *Id.* at 1–2. Having reviewed the motion materials,¹ the record
2 of the case, and the relevant legal authorities, the Court will deny Plaintiff’s motion. The reasoning
3 for the Court’s decision follows.

4 II. BACKGROUND

5 Mr. Meinecke alleges that this action arises from two separate incidences in June 2022,
6 during which he was arrested for obstructing a police officer under Seattle Municipal Code §
7 12A.16.010(A)(3).² Compl. ¶¶ 3, 29, 70. While the parties view the facts differently, there do not
8 appear to be any real disputes over the events that occurred on those two dates. And the evidence
9 on record supports the factual descriptions of those events.

10 Mr. Meinecke is a devout Christian, who believes he is compelled to evangelize in public
11 places near well-attended events so he can share his gospel message with many people in a short
12 period of time. *Id.* ¶¶ 13–15. On June 24, 2022, the United States Supreme Court rendered its
13 decision overturning *Roe v. Wade*,³ and a significant number of people were gathering outside the
14 federal building in Seattle to express their support for abortion rights. *Id.* ¶¶ 29–31. Around 4:45
15 p.m., Mr. Meinecke went to a public walkway outside the federal building where protestors were
16 gathered. *Id.* ¶¶ 29–30. He walked back and forth on the pedestrian walkway, holding up a sign,
17 reading from the Bible, and handing out Christian literature. *Id.* ¶ 35. After about an hour, several
18 protestors began to surround him. *Id.* ¶ 36. Feeling uncomfortable with their close presence, Mr.

19
20 ¹ Including multiple exhibits with videos, Defendants’ response in opposition, ECF No. 17, and Plaintiff’s reply, ECF
No. 19.

21 ² The ordinance provides, in pertinent part: “A person is guilty of obstructing a public officer if, with knowledge that
22 the person obstructed is a public officer, he or she . . . [i]ntentionally refuses to cease an activity or behavior that
creates a risk of injury to any person when ordered to do so by a public officer[.]” Seattle Municipal Code §
12A.16.010(A)(3); Pl.’s Mot. Ex. B, ECF No. 12–3.

23 ³ In *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228 (Jun. 24, 2022), the Court held that the federal
constitution does not provide a right to abortion, overruling *Roe v. Wade*, 410 U.S. 113 (1973).

1 Meinecke crossed the street, but some protestors followed him and began to surround him there as
2 well. *Id.* ¶¶ 37–38. One protestor took Mr. Meinecke’s Bible away from him, so he pulled out
3 another Bible and continued reading. *Id.* ¶ 39–40. About fifteen minutes later, another protestor
4 grabbed Mr. Meinecke’s Bible and ripped pages from it, throwing the torn pages on the ground. *Id.*
5 ¶ 41. Several protestors physically forced Mr. Meinecke to leave the space by carrying him and the
6 sawhorse that Mr. Meinecke had grabbed and dropping him on the pavement. *Id.* ¶¶ 42–43. Mr.
7 Meinecke then walked over to a sidewalk plaza by the federal building and began reading what was
8 left of his second Bible. *Id.* ¶¶ 44–46. At this location, another group of protestors came up to him
9 and one of them knocked him down and took one of his shoes. *Id.* ¶ 47. Several Seattle police
10 officers arrived, including Lt. Nelson and Officer Culbertson, and the protestors around Mr.
11 Meinecke disbursed. *Id.* ¶¶ 48–50. Officer Culbertson ordered Mr. Meinecke to go across to the
12 other side of the street. Mr. Meinecke made clear that he did not want to go to the new location
13 because he would be a significant distance away from where the protestors were gathering, and
14 therefore, refused to leave. *Id.* ¶¶ 52–55. The police officers arrested Mr. Meinecke for obstruction,
15 thereby preventing him from interacting with the protestors. *Id.* ¶¶ 56–66. He was kept at the
16 precinct for two hours and released after the abortion rally had ended. *Id.* ¶¶ 67–69.

17 On June 26, 2022, the annual Seattle PrideFest was taking place at the Seattle Center, a
18 public park. *Id.* ¶ 70. Mr. Meinecke entered the park around 12:15 p.m., set up a lawn chair on a
19 grassy area on the outskirts of the park, and started reading aloud from the Bible. *Id.* ¶¶ 70–73.
20 Eventually some PrideFest attendees took notice, dancing near him, holding up a flag to keep people
21 from seeing him, some made loud noises so he could not be heard, and one individual poured water
22 on his Bible. *Id.* ¶¶ 75–77. Although some pages were soaked, Mr. Meinecke was able to continue
23 reading his Bible aloud for another couple hours without interference. *Id.* ¶ 78. At some point,

24 ORDER DENYING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

1 several PrideFest attendees started to gather around him, yelling at him. *Id.* ¶ 79. Some nearby
2 police officers approached the scene, and Mr. Meinecke was asked to move to a public area located
3 outside the park. *Id.* at ¶¶ 81–84. Mr. Meinecke refused to move and continued to read his Bible
4 aloud. *Id.* ¶ 85. A PrideFest attendee yelled at the police officers and demanded they remove Mr.
5 Meinecke from the park. *Id.* ¶ 86. Police officers, Lt. Nelson and Lt. Brown, informed Mr.
6 Meinecke that they were imposing a “time, place, and manner” restriction on him and ordered him
7 to leave the park, but Mr. Meinecke asserted his right to speak and continued to sit in his chair and
8 read his Bible aloud. *Id.* ¶¶ 87–89. Several attendees continued to mock him while police officers
9 stood closeby. *Id.* ¶ 90. Lt. Brown told Mr. Meinecke that he was posing a risk to public safety
10 and again ordered him to move. *Id.* ¶ 92. When Mr. Meinecke refused to obey their order to move,
11 the police arrested Mr. Meinecke for obstruction, handcuffed him, and escorted him out of the park
12 as attendees cheered. *Id.* ¶¶ 93–95. He was taken to the precinct, charged with violating §
13 12A.16.010(A)(3), and was released about five hours later after bond was posted. *Id.* ¶¶ 96–97. At
14 his hearing, Mr. Meinecke was informed that the City was dropping the charges against him. *Id.* ¶
15 98.

16 Troubled by the actions of the Seattle police department on June 24 and 26, 2022, Mr.
17 Meinecke filed a formal complaint regarding his perceived mistreatment. *Id.* ¶¶ 99–100. He
18 obtained legal counsel and forwarded correspondence to the Chief of Police and City Attorney,
19 seeking a “written assurance from Seattle officials that the City refrain from prohibiting him from
20 speaking in public areas due to poor or hostile reaction to his religious speech.” *Id.* ¶¶ 102, 104.
21 According to Mr. Meinecke, the City was enforcing “a heckler’s veto” by precluding him from
22 sharing his gospel message in public places because others disagreed with his message. *Id.* ¶ 102–
23 103. On January 10, 2023, Seattle’s Director of Police Accountability reported his findings,

24 ORDER DENYING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

1 acknowledging the underlying facts, but concluding that the officers followed policy appropriately
2 in requiring him to move when others posed a threat, and properly arresting him when he refused
3 to move. *Id.* ¶¶ 107–109.⁴

4 Mr. Meinecke then filed this lawsuit against the City of Seattle, Washington, Daniel Nelson,
5 Robert Brown and Sean Culbertson,⁵ asserting four causes of action:

- 6 • Violation of Free Speech;
- 7 • Violation of Due Process Clause;
- 8 • Unlawful Arrest and False Imprisonment on June 24, 2022;
- 9 • Unlawful Arrest and False Imprisonment on June 26, 2022.

10 Compl. ¶¶ 110–25. He seeks a declaration, a preliminary and permanent injunction, and nominal,
11 compensatory, and punitive damages, as well as costs and attorneys’ fees. *Id.* at 18–19.

12 By the pending motion, Mr. Meinecke moves for a preliminary injunction that enjoins
13 Defendants from enforcing “time, place, and manner” restrictions and applying Seattle municipal
14 code ordinance § 12A.16.010(A)(3) “to eliminate protected speech in traditional public fora
15 whenever they believe individuals opposing the speech will act hostile toward it.” Mot. 1–2, ECF
16 No. 12.

17 III. LEGAL STANDARD

18 “A preliminary injunction is an extraordinary and drastic remedy; it is never awarded as of
19 right.” *Munaf v. Geren*, 553 U.S. 674, 689–90 (2008) (internal citations omitted). Plaintiff must
20 make a “clear showing” that: (1) he is likely to succeed on the merits; (2) in the absence of an
21 injunction, he would likely suffer irreparable harm; (3) the balance of equities tips in his favor; and

22 ⁴ The Case Summary is attached to Plaintiff’s motion. Pl.’s Mot. Ex. C, ECF No. 12-4.

23 ⁵ The police officers were sued individually and in their official capacities with the Seattle Police Department.

1 (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20
2 (2008). In weighing whether a preliminary injunction is appropriate, courts in this Circuit may use
3 a “sliding scale” approach, in which “the elements of the preliminary injunction test are balanced,
4 so that a stronger showing of one element may offset a weaker showing of another.” *Alliance for
5 the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131–35 (9th Cir. 2011); *see also Al Otro Lado v.
6 Wolf*, 952 F.3d 999, 1007 (9th Cir. 2020); *Kater v. Churchill Downs Inc.*, 423 F. Supp. 3d 1055,
7 1061 (W.D. Wash. 2019).

8 “Due to the urgency of obtaining a preliminary injunction at a point when there has been
9 limited factual development, the rules of evidence do not apply strictly to preliminary injunction
10 proceedings.” *Herb Reed Enters., LLC v. Florida Ent. Mgmt., Inc.*, 736 F.3d 1239, 1250 n. 5 (9th
11 Cir. 2013). Further, a district court has broad discretion in determining if a preliminary injunction
12 should issue. *See All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011). “In
13 deciding a motion for a preliminary injunction, the district court ‘is not bound to decide doubtful
14 and difficult questions of law or disputed questions of fact.’” *Int’l Molders’ & Allied Workers’
15 Local Union No. 164 v. Nelson*, 799 F.2d 547, 551 (9th Cir. 1986) (quoting *Dymo Indus., Inc. v.
16 Tapewriter, Inc.*, 326 F.2d 141, 143 (9th Cir. 1964)).

17 IV. DISCUSSION

18 A. Standing

19 Defendants assert that Mr. Meinecke must demonstrate standing for each form of relief he
20 seeks, and they contend that he lacks standing to seek injunctive relief on either his facial or as-
21 applied challenge to the City’s policy. Opp’n 8, ECF No. 17 (citing *Friends of the Earth, Inc. v.
22 Laidlaw Env’t Servs., Inc.*, 528 U.S. 167, 185 (2000)). The Court shall address this issue first,
23 because “[s]tanding is a threshold matter of jurisdiction.” *LA All. for Human Rights v. Cnty. of Los*

24 ORDER DENYING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

1 *Angeles*, 14 F.4th 947, 956–57 (9th Cir. 2021) (citing *Steel Co. v. Citizens for a Better Env’t*, 523
2 U.S. 83, 102 (1998)). A district court has no authority to grant relief in the form of a preliminary
3 injunction where it has no jurisdiction over the parties. *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S.
4 574, 584 (1999).

5 To demonstrate standing, plaintiffs must show that they “(1) suffered an injury in fact, (2)
6 that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be
7 redressed by a favorable judicial decision.” *Spokeo, Inc. v. Robins*, 578 U.S. 330 (2016). At this
8 preliminary injunction stage, they “must make a clear showing of each element of standing.” *Yazzie*
9 *v. Hobbs*, 977 F.3d 964, 966 (9th Cir. 2020) (per curiam) (citations omitted). Plaintiffs “may rely
10 on the allegations in their Complaint and whatever other evidence they submitted in support of their
11 [preliminary-injunction] motion to meet their burden.” *City & Cnty. of San Francisco v. United*
12 *States Citizenship & Immigr. Servs.*, 944 F.3d 773, 787 (9th Cir. 2019) (alteration in original)
13 (quoting *Washington v. Trump*, 847 F.3d 1151, 1159 (9th Cir. 2017) (per curiam)).

14 There is no argument here that Plaintiff has standing to proceed before this Court on his
15 claim for damages for unlawful arrest and false imprisonment. *See* Opp’n 8. With regard to
16 Plaintiff’s claim that his constitutional right to free speech was violated, he has pleaded that the
17 Defendants have previously prevented him from freely speaking in a public forum, and he fears
18 that he will be similarly silenced at the upcoming PrideFest event in 2023. Reply 2–3, ECF No 19.
19 Whenever First Amendment speech is implicated, “the inquiry tilts dramatically toward a finding
20 of standing.” *LSO, Ltd. v. Stroh*, 205 F.3d 1146, 1155 (9th Cir. 2000); *see also Cal. Pro-Life*
21 *Council, Inc. v. Getman*, 328 F.3d 1088, 1094 (9th Cir. 2003) (“Particularly in the First
22 Amendment-protected speech context, the Supreme Court has dispensed with rigid standing
23 requirements.”). Plaintiff’s asserted injury was and is personal, he has stated his intention to engage

24 ORDER DENYING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

1 in similar behavior at the upcoming PrideFest event, and he seeks to prevent the same alleged
2 injury—be silent or be arrested—occurring again. Plaintiff’s allegations and evidence on the record
3 are sufficient to establish standing at this preliminary injunction stage. Plaintiff has standing to
4 assert his free speech claim to vindicate and protect his own constitutional rights, and further
5 standing analysis is not necessary at this time.

6 **B. Preliminary Injunction**

7 **1. Likelihood of success on the merits**

8 Likelihood of success on the merits is a threshold inquiry and the most important factor in
9 determining whether a preliminary injunction should issue. *Edge v. City of Everett*, 929 F.3d 657,
10 663 (9th Cir. 2019) (citing *California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018)). “Courts asked
11 to issue preliminary injunctions based on First Amendment grounds face an inherent tension: the
12 moving party bears the burden of showing likely success on the merits . . . and yet within that merits
13 determination the government bears the burden of justifying its speech-restrictive law.” *California*
14 *Chamber of Com. v. Council for Educ. & Rsch. on Toxics*, 29 F.4th 468, 477 (9th Cir. 2022)
15 (quoting *Thalheimer v. City of San Diego*, 645 F.3d 1109, 1115 (9th Cir. 2011), *overruled on other*
16 *grounds by Bd. of Trs. of Glazing Health & Welfare Tr. v. Chambers*, 941 F.3d 1195, 1199 (9th
17 Cir. 2019) (*en banc*)). “Therefore, in the First Amendment context, the moving party bears the
18 initial burden of making a colorable claim that its First Amendment rights have been infringed, or
19 are threatened with infringement, at which point the burden shifts to the government to justify the
20 restriction” on speech. *Id.* at 478.

21 Plaintiff contends that Seattle applies its obstruction ordinance to facilitate a “heckler’s
22 veto” to eliminate disfavored expression in traditional public fora, which is a violation of his right
23 to free speech. Mot. 12. (citing *Ctr. for Bio-Ethical Reform, Inc. v. Los Angeles Cnty. Sheriff Dep’t*,

24 ORDER DENYING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

1 533 F.3d 780, 788 (9th Cir. 2008)). He claims that the City prevents speakers from reaching their
2 desired audience whenever their message is met with hostility. *Id.* at 3. Mr. Meinecke clarifies that
3 he “does not seek to enjoin the obstruction ordinance itself, but Seattle’s policy of interpreting this
4 ordinance to have police officers impose a ‘time, place, and manner’ order on speakers who come
5 across unruly listeners.” Reply 9.

6 The First Amendment prohibits the enactment of laws “abridging the freedom of speech.”
7 U.S. Const. amend. I. Pursuant to the Free Speech Clause, the government “has no power to restrict
8 expression because of its message, its ideas, its subject matter, or its content.” *Police Dep’t of*
9 *Chicago v. Mosley*, 408 U.S. 92, 95 (1972). “Content-based laws—those that target speech based
10 on its communicative content—are presumptively unconstitutional and may be justified only if the
11 government proves that they are narrowly tailored to serve compelling state interests.” *Reed v. Town*
12 *of Gilbert*, 576 U.S. 155, 163 (2015). However, the right to “free speech” is not a right without
13 responsibility; it does not mean that one has an “absolute right to protest at any time and at any
14 place, or in any manner of their choosing.” *Menotti v. City of Seattle*, 409 F.3d 1113, 1138–39 (9th
15 Cir. 2005); *see also Wood v. Moss*, 572 U.S. 744, 757 (2014) (“It is equally plain that the
16 fundamental right to speak secured by the First Amendment does not leave people at liberty to
17 publicize their views whenever and however and wherever they please.”) (citations omitted)).

18 Expression, whether oral or written or symbolized by conduct, is
19 subject to reasonable time, place, or manner restrictions. [R]estrictions of this kind are valid provided that they are justified
20 without reference to the content of the regulated speech, that they
21 are narrowly tailored to serve a significant governmental interest,
and that they leave open ample alternative channels for
communication of the information.

22 *Clark v. Cmty. for Creative Non-Violence*, 468 U.S. 288, 293 (1984). However, “[t]he right to free
23 speech . . . may not be curtailed simply because the speaker’s message may be offensive to his

24 ORDER DENYING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

1 audience.” *Hill v. Colorado*, 530 U.S. 703, 716 (2000). Excluding speech based on “an anticipated
2 disorderly or violent reaction of the audience” is a form of content discrimination, generally
3 forbidden in a traditional or designated public forum. *Seattle Mideast Awareness Campaign v. King*
4 *Cnty.*, 781 F.3d 489, 502 (9th Cir. 2015).

5 Because Plaintiff is not challenging any specific statute or ordinance, the Court focuses on
6 the Plaintiff’s allegation that the City has implemented an unconstitutional policy, illustrated by the
7 actions of the police officers on the occasions described in the record before the Court. Certain
8 basics are agreed to by the parties. There is no contesting that Mr. Meinecke’s speech is protected
9 speech, and the City’s streets and parks are traditional public fora. *See Frisby v. Schultz*, 487 U.S.
10 474, 480–81 (1988) (recognizing that streets and parks are properly considered traditional public
11 fora); *Gathright v. City of Portland, Or.*, 439 F.3d 573, 576 (9th Cir. 2006) (noting that “preaching
12 is a form of expression protected by the First Amendment”).

13 And it is also clear that not “even the most vital First Amendment expressions . . . can be
14 said automatically to overcome the need of a city to maintain order and security for its residents
15 and visitors, in the face of violence.” *Menotti*, 409 F.3d at 1140 (citation omitted).

16 Against this background, the Court finds that there is no indication in the record that the
17 City’s police officers acted based on the content of Mr. Meinecke’s speech. Rather, their actions
18 were prompted by physical altercations and threats of violent behavior. The police did not require
19 Mr. Meinecke to leave the forum. Citing a “time, place, and manner” restriction, the police
20 requested and then ordered Mr. Meinecke to move to a different area both for his own protection
21 and to maintain order due to threats of violence. Mr. Meinecke complains that these actions, because
22 they were in response to the crowd’s negative response to his message, represent an unconstitutional
23 “heckler’s veto” that failed to leave open ample alternative avenues for his expression. Compl. ¶

24 ORDER DENYING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

1 112; Mot. 12 (citing *Ctr. for Bio-Ethical Reform*, 533 F.3d at 788 n. 4). Plaintiff compares the
2 events that took place to those in *Bible Believers v. Wayne Cnty., Mich.*, 805 F.3d 228, 233 (6th
3 Cir. 2015), and *Deferio v. City of Syracuse*, 306 F. Supp. 3d 492 (N.D.N.Y. 2018).

4 In *Bible Believers*, an evangelical Christian group alleged that the county police had taken
5 action to effectuate a heckler’s veto against them when the group displayed messages offensive to
6 the predominantly Muslim crowd at the 2012 Arab International Festival in Dearborn, Michigan.
7 805 F.3d at 238–39. The officers informed the group that if they did not leave the festival, they
8 would be cited for disorderly conduct. *Id.* at 240. The Sixth Circuit held that “when a peaceful
9 speaker, whose message is constitutionally protected, is confronted by a hostile crowd, the state
10 may not silence the speaker as an expedient alternative to containing or snuffing out the lawless
11 behavior of the rioting individuals.” *Id.* at 252. At the same time, the Court also recognized that
12 consideration must be afforded for the safety of law enforcement. *Id.* at 253.

13 In *Deferio*, a buffer zone was established in the permit granted to the event organizers. 306
14 F. Supp. 3d at 512–13. The police officer interpreted the permit as providing the event organizers
15 the right to exclude protestors such as the plaintiff from the buffer zone. *Id.* at 509. The Court
16 found that the enforcement of the buffer zone was not narrowly tailored to promote a substantial
17 governmental interest and granted a preliminary injunction. *Deferio v. City of Syracuse*, 193 F.
18 Supp. 3d 119, 126–27 (N.D.N.Y. 2016).

19 The facts in the record before this Court are distinguishable from both *Deferio* and *Bible*
20 *Believers*. Here, the Seattle police officers did not act to “silence” Mr. Meinecke, nor did they evict
21 or banish him from the forum. Indeed, Mr. Meinecke, of his own accord, moved more than once
22 to avoid disturbances during the hours that he attended the abortion rally. What the police did was
23 order Mr. Meinecke to move to a safer location. He was not asked to leave the protest, and he was

24 ORDER DENYING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

1 arrested, and thus silenced, only after he refused to move to create a separation between himself
2 and the crowd. Similarly, at the PrideFest event, the police did not ask Mr. Meinecke to stop
3 speaking or to leave the event. Mr. Meinecke was, however, asked to relocate to a safe distance
4 away from the crowd, and he was warned that noncompliance would result in his arrest for
5 obstructing a public officer. After he refused to comply, he was arrested.

6 In this case, the Court must consider the competing principles that the government may not
7 regulate speech based on listeners' reactions and that the government may regulate the time, place,
8 and manner of speech to maintain peace and order. These considerations present "doubtful and
9 difficult questions of law or disputed questions of fact"⁶ that require further development of the
10 record before the Court can determine whether Plaintiff is likely to succeed on the merits of his
11 free-speech claim. Plaintiff is seeking the extraordinary relief of a preliminary injunction, and he
12 has not carried his burden of making a clear showing that he is entitled to such relief.

13 **2. Irreparable harm, balance of equities, and the Public Interest**

14 Because likelihood of success is a threshold inquiry, when "a plaintiff has failed to show
15 the likelihood of success on the merits, the Court 'need not consider the remaining three *Winter*
16 elements.'" *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (internal citation omitted).
17 Given the gravity of the issues presented, the Court nevertheless will do so. As noted above, a
18 plaintiff seeking a preliminary injunction must establish that he is likely to suffer irreparable harm
19 in the absence of preliminary relief; importantly, a showing of a mere "possibility" of harm is not
20 enough. *See Winter*, 555 U.S. at 20, 22 ("[T]he Ninth Circuit's "possibility" standard is too
21 lenient."). Irreparable injury is traditionally defined as harm for which there is no adequate legal

22
23 ⁶ *Nelson*, 799 F.2d at 551.

1 remedy, such as an award of damages. *See Rent-A-Ctr., Inc. v. Canyon Television & Appliance*
2 *Rental, Inc.*, 944 F.2d 597, 603 (9th Cir. 1991).

3 Plaintiff's claim at issue here deals with the loss of First Amendment freedoms, and for
4 purposes of the issuance of a preliminary injunction, such a loss, "for even minimal periods of time,
5 unquestionably constitutes irreparable injury." *Associated Press v. Otter*, 682 F.3d 821, 826 (9th
6 Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

7 Courts must also "balance the competing claims of injury and must consider the effect on
8 each party of the granting or withholding of the requested relief." *Winter*, 555 U.S. at 24 (quotation
9 marks and citation omitted). The Court has already noted the delicate balance between protecting
10 an individual's right to speak freely and the City's obligation to maintain the peace. Certainly, the
11 public interest favors the exercise of First Amendment rights. *Doe v. Harris*, 772 F.3d 563, 583
12 (9th Cir. 2014). At the same time, "[n]o one could seriously dispute that the government has a
13 significant interest in maintaining public order; indeed this is a core duty that the government owes
14 its citizens." *Menotti*, 409 F.3d at 1131.

15 The Court is concerned with the vague request for injunctive relief made by Plaintiff. Of
16 note, he presents no proposed language for an injunction. The Court cannot reasonably enjoin the
17 City from enforcing its obstruction ordinance, nor can the Court reasonably enjoin the City from
18 enforcing time, place, and manner restrictions. The issue of an injunction requires more specificity
19 than that. In some respects, Mr. Meinecki simply asks the Court to require the City to act
20 constitutionally in its enforcement of its own ordinances. "[C]ourts will not countenance injunctions
21 that merely require someone to 'obey the law.'" *Hughey v. JMS Dev. Corp.*, 78 F.3d 1523, 1531
22 (11th Cir. 1996) (quoting *Payne v. Travenol Lab., Inc.*, 565 F.2d 895, 897-98 (5th Cir. 1978));
23 *Daniels v. Woodbury Cnty., Iowa*, 742 F.2d 1128, 1134 (8th Cir. 1984) ("[A]n injunction which

24 ORDER DENYING PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION

1 does little or nothing more than order the defendants to obey the law is not specific enough.”);
2 *E.E.O.C. v. AutoZone, Inc.*, 707 F.3d 824, 841–42 (7th Cir. 2013) (“An obey-the-law injunction
3 departs from the traditional equitable principle, codified in Rule 65(d) of the Federal Rules of Civil
4 Procedure.”).

5 Federal Rule of Civil Procedure Rule 65(d), requires that “[e]very order granting an
6 injunction . . . must: state the reasons why it issued; state its terms specifically; and describe in
7 reasonable detail—and not by referring to the complaint or other document—the act or acts sought
8 to be restrained or required” This specificity requirement “prevent[s] uncertainty and
9 confusion on the part of those faced with injunctive orders and . . . avoid[s] the possible founding
10 of a contempt citation on a decree too vague to be understood.” *Schmidt v. Lessard*, 414 U.S. 473,
11 476 (1974). The Court finds Mr. Meinecke’s request for a preliminary injunction is overbroad and
12 lacks the specificity that is required by Federal Rule of Civil Procedure 65(d). If the Court were to
13 grant Plaintiff’s motion, the City may be unfairly burdened in its efforts to maintain order. On the
14 other hand, Mr. Meinecke is free to attend the PrideFest event and any other public event as well
15 as preach in any public fora, subject to constitutional time, place, and manner restrictions.

16 Accordingly, based on the record before it, the Court denies Plaintiff’s motion for a
17 preliminary injunction, without prejudice to a future request should it become more apparently
18 appropriate as the facts in the record are further developed through discovery, and if accompanied
19 by an appropriately specific proposed injunction. The City and its police officers are reminded that
20 expression of an idea may not be prohibited simply because others find it offensive or disagreeable;
21 listeners’ reactions are not a content-neutral basis for taking an enforcement action against a
22 speaker; and removing a speaker due to crowd hostility seldom constitutes the least restrictive

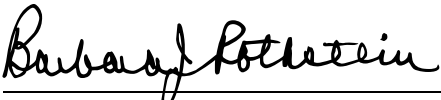
23
24 ORDER DENYING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

1 means available to serve the legitimate purpose of maintaining order. *See Bible Believers*, 805 F.3d
2 at 253–54.

3 **V. CONCLUSION**

4 For the foregoing reasons, the Court denies Plaintiff’s motion for a preliminary injunction,
5 ECF No. 12. This case shall proceed pursuant to its scheduling order, ECF No. 21.

6 DATED this 22nd day of June, 2023.

7
8 

9 Barbara Jacobs Rothstein
10 U.S. District Court Judge

11
12
13
14
15
16
17
18
19
20
21
22
23
24 ORDER DENYING PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION